



**MINUTES**  
**JUDICIAL APPOINTMENTS ADVISORY BOARD**  
**City of Scottsdale**  
**Regular Meeting**  
**6:00 p.m., Thursday, June 30, 2011**  
**Human Resources Pinnacle Training Room**  
**7575 E. Main Street**

**PRESENT:** Paul Rybarsyk, Chair  
Donald Alvarez, Vice Chair  
Dr. Ira Ehrlich  
Judge John Rea  
Francis Scanlon  
Kenneth Weingarten

**ABSENT:** Judge Jean Hoag

**STAFF:** Valerie Wegner  
Judy Dewey  
Sherry Scott  
Terry Welker

**OTHERS:** Judge Bruce Cohen, Board Appointee

**CALL TO ORDER**

The meeting was called to order at 6:07 p.m.

**ROLL CALL**

A formal roll call confirmed the presence of a quorum as noted above. Ms. Wegner reported that the agenda was amended to allow Board interaction with Judge Cohen, whose appointment is expected to be approved by City Council on July 5. Until that time he cannot vote on Board action items.

**1. APPROVAL OF MINUTES OF PUBLIC MEETING CONDUCTED ON JUNE 2, 2011**

Vice Chairman Alvarez clarified that the second paragraph of page 4 refers to Rule 6 of the Arizona Rules of Procedure for Judicial Performance Review, which is a subset of the Supreme Court Rules.

**BOARD MEMBER EHRLICH MOVED TO APPROVE THE MINUTES OF THE JUNE 2, 2011 PUBLIC MEETING AS AMENDED. BOARD MEMBER WEINGARTEN SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0). JUDGE HOAG WAS ABSENT.**

**2. APPROVAL OF THE EXECUTIVE SESSION MINUTES OF PUBLIC MEETINGS CONDUCTED ON APRIL 21, 2011 AND JUNE 2, 2011**

Vice Chairman Alvarez noted one amendment to the executive session minutes of June 2, 2011. Ms. Scott explained that the request was to include the words, "with the exception of one attorney," at the end of a sentence in the third paragraph of page 2. No corrections were submitted for the April 21, 2011 minutes.

**VICE CHAIRMAN ALVAREZ MOVED TO APPROVE THE APRIL 21, 2011 EXECUTIVE SESSION MINUTES AS PRESENTED, AND THE JUNE 2, 2011 EXECUTIVE SESSION MINUTES AS AMENDED. BOARD MEMBER EHRLICH SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0). JUDGE HOAG WAS ABSENT.**

**3. ACKNOWLEDGEMENT OF OUTGOING BOARD MEMBER**

Ms. Wegner thanked Judge Jean Hoag for her six years of service on the Board, saying her input and service was greatly valued and much appreciated. The Board Members strongly concurred with this statement.

**4. DISCUSSION OF UPCOMING BOARD MEMBER TERM EXPIRATIONS**

Ms. Wegner reviewed the term expiration dates for all existing members of the Board.

**5. DISCUSSION OF THE PRESIDING JUDGE RECRUITMENT PLAN AND TIMELINE**

Ms. Wegner reported that according to the updated timeline, JAAB's work should conclude by the week of October 10 at the latest and prior to the term expirations of Chair Rybarsyk and Board Members Rea and Scanlon. At that meeting, JAAB will be asked to make their final recommendations. She provided copies of the proposed text of the recruitment brochure for the presiding judge. Next week, Human Resources will work with the Graphics Department to start creating the brochure and preparing the application and supplemental questionnaire. On July 15, staff will place newspaper advertisements once a week for a minimum of two successive weeks. The recruitment period will open by July 25 and continue through August 19. JAAB will convene on August 25 to select a minimum of six candidates to interview, and to finalize their interview questions.

Chairman Rybarsyk inquired about the number of applicants who submitted for the presiding judge position in the past. Ms. Wegner said the last presiding judge recruitment, in 2000, drew less than 20 candidates, but HR has received quite a few inquiries this time. If fewer than six applicants apply, JAAB could either decide to keep the recruitment open longer or move ahead with the ones that are submitted.

Ms. Wegner reported that staff will start setting up interviews on August 29. JAAB will reconvene the week of September 19 to begin the interviews. A second interview session or assessment meeting could occur at the end of September or early October if

necessary. The Board will convene for the last time during the week of October 10 to share the results of reference checks and to make final recommendations on a minimum of three finalist candidates for City Council interviews. Those interviews should occur between October 17 and November 4. City Council will be asked to appoint a new presiding judge by December 13.

Ms. Wegner noted that Judge Morgan requested that the new presiding judge be hired in time to allow for two to three months of overlap. She also mentioned that the two-week State judicial orientation session occurs in January.

Board Member Ehrlich felt that the Board should do their due diligence on all six candidates instead of just the three finalists. Vice Chairman Alvarez noted that Judge Morgan offered to take Board Members on a tour of the court process to demonstrate a presiding judge's duties. That would give them a better idea of what the job entails besides trying cases and dealing with judicial matters. Mr. Welker said Judge Morgan agreed to assess the job description, address any shortcomings in it, and suggest the type of process that may lend itself to evaluating potential candidates for the entire spectrum of duties. He said Judge Morgan does not wish to make a recommendation on any candidate.

In response to an inquiry from Board Member Weingarten, Mr. Welker explained that if the presiding judge happens to be an internal candidate, and his appointment creates an opening at the associate judge level, the exact same eligibility list could be used to fill that new opening within four and a half months. If none of those candidates are interested in the associate judge position, the City would have to begin the process anew. Board Member Scanlon asked whether Council could opt not to fill the vacant associate judge position. Ms. Wegner said that while this was possible, she doubted this would happen. Vice Chairman Alvarez noted that Council could face legal issues should the Court be unable to resolve cases in a timely manner.

Chairman Rybarsyk felt there was no need for JAAB to meet to discuss the contents of the brochure. Vice Chairman Alvarez suggested three newspapers to place advertisements in: *Arizona Attorney*, *Maricopa County Bar Newsletter*, and the *Scottsdale Bar Newsletter*. Chairman Rybarsyk added the *Arizona Business Gazette* to the list.

Ms. Dewey distributed copies of the draft brochure. In response to an inquiry from Chairman Rybarsyk, Ms. Scott explained that the City Charter has changed recently. Officers of the City must live in Scottsdale, but under the new charter, the City Judge is not included on the list of officers. She would not be surprised, however, if City Council required residency in the contract. Mr. Welker stated that HR will ensure that all such issues are clarified beforehand. Ms. Scott suggested that until the issue is clarified, the brochure should mention that residency may be required.

Ms. Wegner stated that the application used in 2000 was very extensive, at 60 pages. HR would like to intake the initial applications electronically, then provide a supplemental set of judicial-specific questions. She queried whether the questions used in the 2000 application would still be appropriate this year. Mr. Welker suggested that staff distribute what they consider the best draft of the brochure to JAAB. Each Board Member would then send their comments directly to staff, who would make the necessary changes. Chairman Rybarsyk proposed that JAAB simply direct staff to compile and disseminate the brochure, and that staff receive the input and adhere to the recommendations of the

City Court's office. He doubted that JAAB could add anything better. The Board agreed by consensus.

Judge Cohen suggested that the application inquire whether applicants would be interested in an associate judge position if one became available. Chairman Rybarsyk felt the process should be left as it is. Mr. Welker agreed, saying it would be better to let the presiding judge process stand on its own merit, and play itself out naturally.

Ms. Wegner asked whether, in the event of a large number of submissions, the Board preferred to review all the applications directly or have staff pre-screen the applications according to the Board's criteria. Chairman Rybarsyk said the pre-screening process should eliminate any candidates that do not qualify for the position. Mr. Welker responded that staff could screen the candidates and forward those that fit the criteria. If there is still a significant number, staff could make some recommendations based on years of service, or years on the bar, etc. HR does that for every job that comes through the City.

The Board directed staff to move forward with the proposed timeline as presented. They agreed to meet on August 25 and September 22. An extra meeting will be set for September 29, subject to cancellation if not necessary. Mr. Welker noted that it might not be practical to start at 6 p.m. with the intent of interviewing six candidates. Chairman Rybarsyk suggested a 5 p.m. start for both meetings.

Ms. Wegner reported that three new Board appointees will be ready to go as soon as the old terms expire in October. Mr. Welker said the number of applications received for a position often determines the process used. An overwhelming number of applications usually results in a culling process that focuses just on the upper echelon of candidates. If few applications are received, the Board might want to expedite certain parts of the process.

## **6. DISCUSSION OF TERM LENGTHS FOR ASSOCIATE CITY JUDGES AND POSSIBLE VOTE FOR A RECOMMENDATION TO CITY COUNCIL TO AMEND TERM LENGTHS FOR ASSOCIATE CITY JUDGES**

Chairman Rybarsyk stated that while it was a consensus of the Board that the initial two year term appointment for judges is appropriate, upon reappointment the terms should be extended to four years, with successive terms also being for four years. It is a lot to ask a professional to undergo the reappointment process every two years. Lengthier terms would result in more and better candidates.

### **BOARD MEMBER RYBARSYK MOVED TO RECOMMEND THAT THE CITY ORDINANCE BE AMENDED SO THAT REAPPOINTMENT OF ASSOCIATE JUDGES SHALL BE FOR FOUR-YEAR TERMS FOLLOWING THE INITIAL TWO-YEAR APPOINTMENT. BOARD MEMBER EHRLICH SECONDED.**

Mr. Welker noted that the previous ordinance used a system of two two-year terms followed by successive four-year terms. In response to an inquiry from Board Member Weingarten, Chairman Rybarsyk said a judge can always be removed for cause. If the state bar files an action against a judge, City Council has the authority to terminate them.

Vice Chairman Alvarez queried why the ordinance was changed in the first place. Ms. Scott responded that the change occurred right before Judge Morton was to receive a final determination about whether she would be renewed. It was acknowledged that

there was a fair chance she would not be renewed. One Council Member initiated the change. Judge Morton would have qualified for a four-year term had she been renewed, but it was felt that she would have had a better chance to get reappointed for two years rather than four. Regardless, she was still denied.

Mr. Welker said that in his discussions with Mayor Lane, the idea came up that on third and subsequent reappointments for associate judges, Council should have the flexibility of appointing them for two, three, or four years, depending on their performance.

Chairman Rybarsyk noted that the Supreme Court has said that municipal court judges should have a two-year minimum during which they cannot be terminated without cause. It calls into question whether judges are truly independent when the executive branch can hire and fire them. From the perspective of a prospective judge, would they be willing to leave their practice to become a city court judge for two years only to have to go through the process again in two years? Board Member Rea noted that the due diligence process revealed a recurring theme. Attorneys feel that City Council exerts a political influence on judges, and the judges are affected by that.

**THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).  
JUDGE HOAG WAS ABSENT.**

**7. DISCUSSION OF JUDICIAL REAPPOINTMENT RECOMMENDATION  
PROCESSES AND PROCEDURES, INCLUDING THE POSSIBILITY OF  
UTILIZING ONLINE SURVEYS**

Ms. Wegner stated that preliminary conversations with the vendor that conducts surveys for the City of Scottsdale indicates that the online survey idea is very promising, though many details have yet to be worked out. Electronic surveys would likely cost a great deal less than the current process. The Board directed staff to continue to explore the possibility of online surveys.

**8. FUTURE AGENDA ITEMS**

Chairman Rybarsyk requested an agenda item for a future meeting, after the Board's recommendation on the new presiding judge, to further discuss the use of online surveys.

**ADJOURNMENT**

With no further business to discuss, being duly moved and seconded, the meeting of the Judicial Appointments Advisory Board adjourned at 7:52 p.m.

Respectfully submitted,

Respectfully submitted,  
Valerie Wegner  
HR Office Coordination Manager

Reviewed by,  
Paul Rybarsyk  
JAAB Chairperson